

CHAPTER 30
IMPAIRED PHARMACY PROFESSIONAL
AND TECHNICIAN RECOVERY PROGRAM

657—30.1(155A) Definitions. For the purpose of this chapter, the following definitions shall apply:
“*Association*” means a professional pharmaceutical organization, association, or society whose membership consists of Iowa pharmacy professionals or pharmacy technicians.

“*Board*” means the Iowa board of pharmacy examiners.

“*Impairment*” means the inability to practice pharmacy or perform related technical functions with reasonable safety and skill as a result of alcohol or drug abuse, dependency, or addiction, or any neuro-psychological or physical disorder or disability.

“*Impairment program*,” “*recovery program*,” or “*program*” means an impaired pharmacy professional and technician recovery program established to aid the recovery of impaired pharmacists, pharmacist-interns, or pharmacy technicians.

“*Pharmacy professional*” or “*professional*” means an Iowa-licensed pharmacist or an Iowa-registered pharmacist-intern.

“*Pharmacy technician*” or “*technician*” means an Iowa-registered pharmacy technician.

“*Program committee*” or “*committee*” means an impairment program provider, which may be a peer review committee or a committee of a professional pharmaceutical association or society, which has contracted with the board to provide an impairment program for the assistance of impaired Iowa pharmacy professionals and technicians.

“*Recovery contract*” means the written document establishing the terms for an individual professional’s or technician’s participation in the recovery program.

“*Self-report*” means the pharmacy professional’s or pharmacy technician’s providing written or oral notification to the board or a program provider that the professional or technician has been or may be diagnosed as having an impairment prior to the board’s receiving a complaint or report alleging the same from a second party.

657—30.2(155A) Purpose, function, and responsibilities. The board is entrusted with the responsibility to protect the public health and safety through the effective regulation of professionals and technicians engaged in the practice of pharmacy in Iowa. The impaired pharmacy professional and technician recovery program is established to evaluate, assist, and monitor the recovery or rehabilitation of pharmacy professionals and pharmacy technicians whose alcohol or chemical dependency or mental or physical disability is potentially threatening to the public safety and the performance of their duties.

30.2(1) Assistance to pharmacy professionals or pharmacy technicians. The program assists impaired professionals and technicians in obtaining evaluation, treatment, aftercare, and support from the profession needed to maintain personal and professional integrity.

30.2(2) Assistance to the board. The program assists the board in monitoring the activities and professional conduct of impaired professionals and technicians to maintain their integrity and professional standing within the profession of pharmacy.

657—30.3(155A) Program committee and personnel; confidentiality; liability. Activities of program personnel shall be coordinated through the program committee. The committee shall include, but need not be limited to, the following members:

1. One currently licensed Iowa pharmacist;
2. One representative from Drake University College of Pharmacy and Health Sciences;
3. One representative from the University of Iowa College of Pharmacy;
4. The executive secretary/director of the board or the director’s designee;
5. One representative from the association.

30.3(1) *Committee meetings.* The program committee shall convene no less than semiannually. All meetings of the program committee shall be closed to the public.

30.3(2) *Proceedings and records confidential.* Records and proceedings of the committee and program personnel reports shall be privileged and confidential, shall not be considered public or open records, and shall not be subject to a subpoena or to a discovery proceeding. Such records and proceedings shall not be disclosed unless the affected professional or technician so requests or as otherwise provided in rule 657—30.7(155A).

30.3(3) *Immunity from civil liability.* An employee or a member of the board, a committee member, an association or peer review committee, a district or local intervenor, advocate, or monitor, or any other person who furnishes information, data, reports, or records in good faith for the purpose of aiding the impaired professional or technician shall be immune from civil liability. Such person is presumed to have acted in good faith, and any person alleging a lack of good faith has the burden of proof on that issue.

30.3(4) *Program security.* A program provider shall take appropriate steps and shall implement procedures sufficient to ensure the confidentiality of records in the possession of the provider's personnel and the committee. Such security procedures shall include limiting to essential named personnel access to confidential program information, data, and personally identifiable records.

657—30.4(155A) Identification and referral of impaired pharmacy professionals and pharmacy technicians. A professional or technician may self-report an impairment by contacting the board or a program provider. Alternatively, a pharmaceutical peer review committee, a committee of an association, a member of the staff of a college of pharmacy, or any other concerned party may contact a program provider or the board if the reporting person or committee has knowledge which, in the opinion of the reporter, might affect the professional's or technician's competency due to impairment, or which might endanger the public health and safety, or which provides grounds for disciplinary action.

30.4(1) *Board referral of self-reporting professional or technician.* The board may refer a self-reporting professional or technician to the committee for evaluation and assistance. If the self-reporting professional or technician was not involved in the distribution of controlled substances or legend drugs to other individuals, and the self-reporting professional or technician agrees to participate in the impairment program, including executing a recovery contract and abiding by the terms of that contract, the board shall not disclose to the public the identity of the self-reporting professional or technician and shall not disclose to the public information regarding the professional's or technician's impairment.

30.4(2) *Board referral of other impaired pharmacy professionals or technicians.* The board may refer to the committee any professional or technician the board has determined to be in need of assistance or support in recovering from the professional's or technician's addiction or impairment. A referral to the committee may be included in the terms of a board order resulting from a contested case hearing, it may be included in the terms of a settlement agreement between the board and the professional or technician, or it may be a recommendation of the board to the professional or technician.

657—30.5(155A) Recovery contract requirements. An impaired professional or technician participating in an impairment program shall execute and abide by the terms of a recovery contract with the program committee. Such recovery contract shall identify the requirements and responsibilities of the parties to the contract.

30.5(1) *Duration.* The recovery contract shall specify the length of time the professional or technician shall participate in the program.

30.5(2) *Noncompliance.* The recovery contract shall identify acts and omissions which shall constitute noncompliance with the terms of the contract and shall include the resultant actions of the committee in the event of such noncompliance.

30.5(3) Practice restrictions. The recovery contract shall identify restrictions, if any, placed on the professional's or technician's activities regarding the practice of pharmacy and the duration of such restrictions. If the professional or technician is prohibited from practicing pharmacy during any period of the recovery contract and is subsequently deemed to be competent to return to the practice of pharmacy, there shall be prepared and executed a "back-to-work agreement" which shall become an addendum to the original program recovery contract. Any restrictions placed on the professional's or technician's practice activities shall be communicated by the professional or technician to the professional's or technician's employer who shall acknowledge receipt of and agreement with those restrictions within 15 days of the execution of the recovery contract or the recovery contract addendum.

30.5(4) Monitoring provisions. The recovery contract shall provide for the monitoring and frequency of the professional's or technician's activities and progress. Monitoring may include, but is not limited to:

- a. Meetings with aftercare provider or counselor;
- b. Meetings with program advocate or monitor;
- c. Written or personal reports to the program committee;
- d. Body fluid screening and testing or alternate screening and testing measures; and
- e. Participation in addiction support group meetings such as Alcoholics Anonymous or Narcotics Anonymous.

657—30.6(155A) Program provider contract. The board may contract with one or more associations to provide a recovery program for impaired pharmacy professionals and technicians. Such programs shall include, but not be limited to, education, intervention, and posttreatment monitoring. The contract shall provide for payment by the board to the program for expenses incurred in the management and operation of the program but shall not include payment for costs incurred for a participant's initial evaluation, referral services, treatment, or rehabilitation subsequent to intervention. Detailed claims for program expenses shall be submitted to the executive secretary/director or director's designee not less than annually nor more frequently than monthly. A contract shall be renewable on an annual basis.

30.6(1) Annual reporting. An association contracting with the board pursuant to this rule shall annually prepare a written detailed accounting of program activities and expenditures for review by the board. This report shall detail education, intervention, and posttreatment monitoring activities provided under the program.

30.6(2) Quarterly reporting. An association contracting with the board pursuant to this rule shall prepare the following reports on a quarterly basis:

- a. A confidential written report to the board regarding each participant's diagnosis, prognosis, and recommendations for continuing care, treatment, and supervision. Participants shall be identified by case number, and the report shall be written so as to maintain the anonymity of the participant.
- b. A confidential written report to the executive secretary/director or the director's designee regarding each participant's diagnosis, prognosis, and recommendations for continuing care, treatment, and supervision. Participants shall be identified by name. Board staff access to such confidential information, data, and personally identifiable information shall be limited to essential named personnel.

30.6(3) Notification of initial contact. An association contracting with the board pursuant to this rule shall, within 72 hours of receiving information identifying a professional or technician believed to be impaired, notify the executive secretary/director or the director's designee of the program's involvement with the individual. This notification shall identify the individual involved and, if known, the suspected impairment. Notification may be transmitted via telephone, facsimile, or in person.

30.6(4) *Notification of noncompliance or refusal to participate.* An association contracting with the board pursuant to this rule shall report to the board the name of a professional or technician who refuses to cooperate with the program, who refuses to submit to treatment, or whose impairment is not substantially alleviated through intervention and treatment. Such notification shall be in writing, shall identify the individual by name, shall include information regarding the alleged impairment, and shall be submitted to the board within 14 days of the individual's failure or refusal to participate.

30.6(5) *Notification of imminent danger.* An association contracting with the board pursuant to this rule shall report, within 72 hours, the name of an impaired professional or technician whom the committee or monitor believes to be an imminent danger to either the public or the professional or technician. Notification may be transmitted via telephone, facsimile, or in person.

30.6(6) *Notification of illegal drug distribution to others.* An association contracting with the board pursuant to this rule shall report, within 72 hours, the name of an impaired professional or technician where information regarding the professional's or technician's activities discloses known illegal distribution of controlled substances or legend drugs to other individuals. Notification may be transmitted via telephone, facsimile, or in person. Within 10 days of this notification, all records of the participant in the possession of the program and all information regarding the illegal drug distribution shall be delivered to the executive secretary/director or the director's designee.

30.6(7) *Release of information to executive secretary/director.* An association contracting with the board pursuant to this rule shall, upon request from the executive secretary/director or director's designee, release all records of a participant.

657—30.7(155A) Disclosure of information. The board may disclose information, records, and proceedings concerning an impaired professional or technician participating in a recovery program upon the request of the affected professional or technician, as provided in this rule, or as otherwise provided by law.

30.7(1) *Criminal or administrative disciplinary proceeding.* The board may disclose information, records, and proceedings concerning a program participant in a disciplinary hearing before the board, in a subsequent trial or appeal of a board action or order, or in a criminal proceeding.

30.7(2) *Court order.* The board may disclose information, records, and proceedings concerning a program participant pursuant to an order of a court of competent jurisdiction.

30.7(3) *Other jurisdictions.* The board may disclose information, records, and proceedings concerning a program participant to the pharmacist licensing or disciplinary authorities of other jurisdictions or to the pharmacy technician registering, licensing, or disciplinary authorities of other jurisdictions, as appropriate.

30.7(4) *Practice limitations.* The board may disclose that the license or registration of a participant is suspended, revoked, canceled, restricted, or retired; or that the participant is in any manner otherwise limited in the practice of pharmacy; or other relevant information pertaining to the participant which the board deems appropriate.

657—30.8(155A) Program funds. The board shall assess a surcharge of 10 percent to a pharmacist license fee, a pharmacist license renewal fee, a pharmacist-intern registration fee, a pharmacy technician registration fee, and a pharmacy technician registration renewal fee to fund programs under this chapter. The board may also accept funds made available by the federal or state government or by another public or private source to be used for such programs. Surcharges and funds collected pursuant to this rule shall be delivered to the state treasurer, shall be deposited in a fund separate from the state general fund, and shall be used exclusively to administer programs under this chapter. Expenses which may be paid from this fund include costs associated with the provision of education, intervention, post-treatment monitoring for program participants, and administrative costs incurred by the board, but shall not include costs incurred for a participant's initial evaluation, referral services, treatment, or rehabilitation subsequent to intervention.

These rules are intended to implement Iowa Code Supplement section 155A.39.

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